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8  
9 IN THE UNITED STATES BANKRUPTCY COURT

10 FOR THE DISTRICT OF OREGON

11 In re

12 Renaissance Custom Homes, LLC, et al.,

13 Debtors.

Case No. 08-35023-tmb11  
(Jointly Administered with  
Case No. 08-35025-tmb11 and  
08-35026-tmb11)

14 RENAISSANCE DEVELOPMENT  
15 CORPORATION, an Oregon corporation,

16 Plaintiff,

17 v.

18 WELLS FARGO EQUIPMENT FINANCE,  
19 INC., dba WELLS FARGO TECHNOLOGY  
FINANCE,

20 Defendant.

Adv. Pro. No. 09-03252-tmb

**COMPLAINT (To Determine Interest  
In Property)**

22 Renaissance Development Corporation ("RDC") is a debtor and debtor-in-  
23 possession in the above-captioned case ("Debtor"). Debtor seeks a determination as to the  
24 ownership of certain property as between Debtor and Wells Fargo Equipment Finance, Inc.  
25 ("WF") and a determination of the validity, priority and extent of the lien of WF, if any, in  
26 said property. In support of this Complaint, Debtor alleges as follows:

- 1                   1.       The Court has jurisdiction over this matter pursuant to 28 U.S.C.  
2       §§ 157 and 1334(b). This action is a core proceeding pursuant to 28 U.S.C. 157(b)(2)(A).
- 3                   2.       Venue is proper in this district under 28 U.S.C. §1409.
- 4                   3.       The proceeding has been brought in accordance with Rules 7001(2)  
5       and 7070 of the Federal Rules of Bankruptcy Procedure which requires an adversary  
6       proceeding be brought to determine an interest in property, the validity, priority and extent of  
7       any liens on such property, and vesting title to property.
- 8                   4.       Debtor is an Oregon corporation headquartered in Lake Oswego,  
9       Oregon. Debtor filed its voluntary petition for relief under Chapter 11 of Title 11 of the  
10      United States Code on September 25, 2008 (the "Petition Date").
- 11                  5.       Defendant WF is a party to certain agreements entered into with RDC  
12      as more particularly described below.
- 13                  6.       In and around October 2006, RDC entered into negotiations with  
14      Freewire Broadband LLC ("Freewire") for the acquisition of equipment ("Freewire  
15      Equipment") and services to provide high speed internet access and connectivity for Debtor's  
16      main office and its remotely located design centers. Instead of purchasing the equipment  
17      outright, Freewire suggested that Debtor use WF to finance the purchase of the Freewire  
18      Equipment. Freewire continues to provide access and services to Debtor related to the  
19      operation of the equipment and bills Debtor directly each month for those services.
- 20                  7.       On or about October 30, 2006, Debtor entered into a "Master Lease"  
21      with WF for the acquisition of the Freewire Equipment.
- 22                  8.       On or about May 22, 2007, Debtor acquired additional equipment from  
23      Freewire which purchase was financed through WF pursuant to a supplement to the Master  
24      Lease dated May 22, 2007. The additional equipment was installed at Debtor's subdivision  
25      commonly known as Rosemont Pointe in West Linn, Oregon.
- 26                  9.       On or about August 7, 2007, Debtor acquired additional equipment

1 from Freewire which purchase was financed through WF pursuant to a supplement to the  
2 Master Lease dated August 7, 2007. The additional equipment was installed at Debtor's  
3 subdivision commonly known as Pacific Crossing in Forest Grove, Oregon. The equipment  
4 installed at Pacific Crossing has never worked properly and Freewire has not billed Debtor  
5 for service or access charges related to that location.

6 10. Debtor contends that the Master Lease and supplements thereto for the  
7 Freewire Equipment is a disguised financing arrangement and not a true lease.

8 11. Debtor is the owner of the Freewire Equipment and WF is merely a  
9 secured or unsecured creditor of Debtor, depending on whether or not financing statements  
10 were properly and timely filed.

11 WHEREFORE, Debtor prays for an order adjudging that the interest of  
12 Debtor in the Freewire Equipment is an ownership interest and issuing title to Debtor for  
13 such equipment; for an order determining the validity, priority and extent of the lien, if any,  
14 of WF, and for such other and further relief as this Court deems just and appropriate.

15 DATED this 4th day of August, 2009.

16 TONKON TORP LLP

17  
18 By /s/ Timothy J. Conway  
19 Albert N. Kennedy, OSB No. 82142  
20 Timothy J. Conway, OSB No. 85175  
21 Attorneys for Debtors

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